

NEBRASKA ADMINISTRATIVE CODE

Title 155 – STATE FIRE MARSHAL

CHAPTER 1 – REGULATIONS PURSUANT TO THE NEBRASKA NATURAL GAS PIPELINE SAFETY ACT OF 1969

01. Federal regulations adopted by reference are Title 49 of the Code of Federal Regulations, Parts 191, 192, 193 and 199, revised as of June 14, 2013.

01.1. Natural Gas Pipeline Safety Act of 1968, Amendment Numbers 191-18, 191-19, 191-21, 191-22, 192-103A, 192-RIN-2137-AE09, 192-104, 192-105, 192-106, 192-107, 192-108, 192-109, 192-110, 192-111, 192-112, 192-112C, 192-113, 192-113C, 192-114, 192-115, 192-116, 192.117, 193-20, 193-21, 193-22, 193-23, and 199-24.

01.2. Copies of the federal regulations are on file at the office of the Nebraska State Fire Marshal, 246 South 14th Street, Lincoln, NE or at the office of the Secretary of State, Division of Rules and Regulations in the Nebraska State Capitol.

02. Within two (2) hours or as soon as practical, following the discovery of any reportable incident, an operator shall notify the State Fire Marshal Pipeline Safety Division, Lincoln, Nebraska at (402) 471-2027 during normal business hours. After hours, operators shall call the area Pipeline Safety Deputy.

02.1. Reportable incidents, either before or past the meter are:

002.01A. An event that involves a release of gas from a pipeline or of liquefied gas from an LNG facility and results in

002.01Ai. A death or personal injury necessitating in-patient hospitalization; or

002.01Aii. Estimated property damage, including cost of gas lost, of the operator or others, or both of \$50,-000.00 or more; or

002.01Aiii. Any failure which results in the explosion or ignition of natural gas.

02.2. An event that results in an emergency shutdown of an LNG facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.

02.3. An event that is significant in the judgment of the operator, even though it does not meet the criteria of 002.01A or 002.01B.

03. Each written report required by Title 49 of the Code of Federal Regulations, Part 191 adopted herein shall be submitted in duplicate to the Nebraska State Fire Marshal Pipeline Safety Division.

03.1. One copy of the reports submitted pursuant to 003 above will be transmitted to the U.S. Department of Transportation and Nebraska State Fire Marshal no later than March 15.

LEGAL CITATION: Title 155, Chapter 1 – Nebraska State Fire Marshal

STATUTORY CITATION: Neb. Rev. Stat. 81-542 to 81-550 (2009)

CHAPTER 2 – REQUIREMENTS FOR STATEWIDE ONE-CALL NOTIFICATION CENTER

01. These regulations shall apply to the operating procedures of the state-wide one-call center and the qualifications, appointment, retention, and composition of the board of directors.

02. DEFINITIONS.

02.1. Board of directors shall mean the governing board of the association charged with the responsibility for overseeing the operation of the statewide one-call notification center.

02.2. Business day shall mean any day other than a Saturday, Sunday, or state or nationally observed legal holiday.

02.3. Center shall mean the statewide one-call notification center.

02.4. Damage shall mean any impact with partial or complete severance, destruction, impairment, or penetration of, or removal or weakening of support from an underground facility, including its protective coating, housing, or other protective device.

02.5. Emergency condition shall mean any condition which constitutes a clear and present danger to life, health, or property or which demands immediate action to prevent or repair a major service outage.

02.6. Excavation shall mean any activity in which earth, rock, or other material in or on the ground is moved or otherwise displaced by means of tools, equipment, or explosives and shall include grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, and cable or pipe plowing or driving but shall not include (1) normal maintenance of roads if the maintenance does not change the original road grade and does not involve the road ditch, (2) tilling of soil and gardening for seeding and other agricultural purposes, (3) digging of graves or in landfills in planned locations, (4) maintenance or rebuilding of railroad track or facilities located on a railroad right-of-way by the railroad company or its contractors when such maintenance or rebuilding does not change the track grade, or (5) hand digging around the base of a pole for pole inspection as part of routine maintenance or replacement of a pole when the replacement pole is similarly sized and installed in the existing hole.

02.7. Excavator shall mean a person who engages in excavation in this state.

02.8. Gas or hazardous liquid underground pipeline facility shall mean any underground facility used or intended for use in the transportation of gas or the treatment of gas or used or intended for use in the transportation of hazardous liquids including petroleum or petroleum products.

02.9. Nonpermanent surface shall mean any ground consisting of uncovered dirt or rock or ground that is covered by grass or other plant life, crushed rock, gravel, or other similar natural substance.

02.10. Normal working hours shall mean the hours of 7 a.m. to 5 p.m. on a business day in each time zone in the state.

02.11. Operator shall mean a person who manages or controls the functions of an underground facility but shall not include a person who is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on the real property.

02.12. Permanent surface shall mean any ground that is covered by a hard, artificial, weatherproof material such as concrete, asphalt, or other similar substance.

02.13. Person shall mean an individual, partnership, limited liability company, association, municipality, state, county, political subdivision, utility, joint venture, or corporation and shall include the employer of an individual.

02.14. Statewide one-call notification center shall mean the association certified by the State Fire Marshal, operating on a nonprofit basis, supported by its members, and having as its principal purpose the statewide receipt and dissemination to participating operators of information on a fair and uniform basis concerning intended excavation in an area where the operators have underground facilities.

02.15. Underground facility shall mean any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic communications, telephonic communications, telegraphic communications, cable television, electric energy, oil, gas, hazardous liquids, or other substances, including pipes, trunk lines, fiber optic cables, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to such personal property.

02.16. Vendor shall mean the company or person selected by the board of directors to operate the one-call center.

03. Every operator having underground facilities in the state on February 15, 1994 shall furnish the vendor with information concerning the location of their facilities by April 3, 1995.

04. Beginning October 2, 1995, the center shall be established and equipped to process excavation notifications required by the One-Call Notification System Act.

04.1. The center shall establish a toll-free telephone number for purpose of receiving excavation notifications.

04.1.A. Operators utilizing excavation notification telephone numbers other than the center's toll-free number may have the notification calls forwarded to the center, provided such operators discontinue any further public notice or advertising of the old notification telephone numbers. Current public notices and advertising of old notification numbers shall be replaced or removed as soon as is practicable.

04.2. Upon receipt of an excavation notification, the center shall require the following information from the person making the notification:

04.2.A. The name and telephone number of the person making the notification;

- 04.2.B.** The name, address, and telephone number of the excavator;
- 04.2.C.** The location of the area of the proposed excavation, including the range, township, section, and quarter section, unless the area is within the corporate limits of a city or village, in which case the location may be by street address;
- 04.2.D.** The date and time excavation is scheduled to commence;
- 04.2.E.** The depth of excavation;
- 04.2.F.** The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring; and
- 04.2.G.** Whether the use of explosives is anticipated.

05. The center shall inform the excavator of all operators to whom the excavation notification will be transmitted and shall promptly transmit such notice to every operator having an underground facility in the area of intended excavation.

05.1. The center shall assign an identification number to each excavation notice it receives, and shall maintain a record of each notice of intent to excavate and all location requests for a minimum of five years. Such records will be made available and printed upon request from an operator or excavator.

06. The center shall provide notification service during normal working hours at a minimum, and shall provide procedures for emergency notification for calls received at other than normal working hours.

07. The center shall identify, on a current basis, persons who normally engage in excavation activities and shall publicize on a regular basis:

07.1. The existence and purpose of the center; and

07.2. How to learn the location of underground facilities before excavation activities begin.

08. A board of directors shall be appointed by the State Fire Marshal and shall govern the center and establish operating procedures and the technology needed for the center pursuant to the regulations contained in this chapter and shall establish a competitive bidding procedure to select a vendor to provide the notification service.

08.1. The board shall be composed of 22 members representing the following:

08.1.A. Two members representing local exchange telecommunications companies;

08.1.B. Two members representing long-distance telecommunications companies;

- 08.1.C.** Three members representing municipally-owned utilities;
- 08.1.D.** Two members representing public power districts with more than forty million dollars in gross revenue;
- 08.1.E.** Two members representing public power districts or electric cooperatives with less than forty million dollars in gross revenue;
- 08.1.F.** Two members representing cable television companies;
- 08.1.G.** Two members representing natural gas distribution companies;
- 08.1.H.** Two members representing transmission pipeline companies;
- 08.1.I.** One member representing rural water districts;
- 08.1.J.** One member representing governmental utility providers;
- 08.1.K.** One non-voting member representing private excavation contractors; and
- 08.1.L.** One non-voting member representing the Nebraska Department of Roads;
- 08.1.M.** One non-voting member representing county governments.

08.2. In making appointments, consideration shall be given to nominations received from industry trade organizations representing the industries or interests listed in 008.01. Board member terms shall be four years, and shall be staggered so that one-half of the board positions become vacant every two years. One-half of the initial board appointments shall be for two years. Any vacancy on the board, including those created by expiration of any term, shall be filled by the State Fire Marshal.

08.3. The board of directors may incur reasonable administrative costs to be covered by a surcharge to be collected by the vendor.

08.4. The board shall meet no later than one month after the appointment of the initial members.

LEGAL CITATION: Title 155, Chapter 2 – Nebraska State Fire Marshal

STATUTORY CITATION: Neb. Rev. Stat. 76-2321 to 76-2329 (2013)

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